

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LUIS RODARTE, H-16012,)	
)	
Petitioner,)	No. C 15-1048 CRB (PR)
)	
vs.)	ORDER GRANTING
)	MOTION TO DISMISS
MARION SPEARMAN, Warden,)	
)	(Dkt. #8)
Respondent.)	

Petitioner filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the 2013 decision of the California Board of Parole Hearings (BPH) to deny him parole on the grounds that the decision violates the constitutional prohibition against ex post facto laws. Per order filed on April 20, 2015, the court found that, liberally construed, petitioner's ex post facto claims appear minimally cognizable under § 2254 and ordered respondent to show cause why a writ of habeas corpus should not be granted.

Respondent instead moves to dismiss the petition as moot because petitioner was released on parole. Petitioner did not oppose the motion.

Because it is undisputed that petitioner was released on parole on April 30, 2015, the petition for a writ of habeas corpus challenging BPH's 2013 decision to deny him parole must be DISMISSED as moot. See Fendler v. United States Bureau of Prisons, 846 F.2d 550, 555 (9th Cir. 1988) (habeas challenge to denial of parole will become moot if petitioner is released on parole before court considers petition); see also Burnett v. Lampert, 432 F.3d 996, 999-1001 (9th Cir. 2005) (finding habeas petition still moot after petitioner violated parole and was reincarcerated).

Respondent's motion dismiss the petition as moot (dkt. #8) is GRANTED.

The clerk shall enter judgment in accordance with this order and close the file.

SO ORDERED.

DATED: June 5, 2015



CHARLES R. BREYER
United States District Judge